

83-106-I

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STATE HOUSE ANNEX

25 CAPITOL STREET

CONCORD, NEW HAMPSHIRE 03301-6397

September 1, 1983

Charles Ferguson, Chief
Bureau of Health Facilities Administration
Division of Public Health
Department of Health and Welfare
Hazen Drive
Concord, NH 03301

Dear Mr. Ferguson:

You have requested our opinion concerning the application of RSA 328-B requiring the licensure of massage establishments. Specifically you have asked whether licensure is required by "any place where massage is offered or only facilities set up for massage as an entity." Our response is that any place where massage is performed or taught for compensation must be licensed under RSA 328-B, unless exempted pursuant to RSA 328-B:8.¹

¹ RSA 328-B:8 entitled "Exemptions", provides as follows:

I. This chapter shall not be construed so as to require a person who is licensed by this state pursuant to any other chapter of these revised statutes annotated, or any person employed by such a licensee to assist that licensee in the performance or pursuit of the occupation so licensed, to obtain a license pursuant to this chapter to do any act authorized to such a licensee, or such licensee's assistant, by those other chapters; or to subject such licensees to regulation under this chapter by reason of the doing of any such act.

II. This chapter shall not apply to athletic trainers to the extent they are performing bona fide training services for an athletic team located or training within this state.

III. The commissioner may by rule exempt other classes of persons from all or any part of the provisions of this chapter if he shall find that the public interest will be served by such exemption.

Legal Counsel (603) 271-3658
Charitable Trusts (603) 271-3591
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RSA 328-B:3 prohibits the owning or operating of a massage establishment without "a valid license issued pursuant to RSA 328-B:5." A massage establishment is defined as "a place, where, for compensation, massage is performed or taught." Accordingly, an establishment which offers massage to the public for compensation must be licensed, unless otherwise exempted under RSA 328-B:8. Offering other services in addition to or in conjunction with massage does not obviate the need for a license, absent an exemption pursuant to RSA 328-B:8.

I trust this is responsive to your inquiry. Should you have any additional questions, please feel free to contact me.

Very truly yours,



Loretta S. Platt
Assistant Attorney General
Division of Legal Counsel

LSP/gla

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